

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2006-12

GEORGE ALAN FISHER  
510 San Mateo Avenue  
San Bruno, California 94066

Certified Public Accountant  
Certificate No. CPA 50369

and

FISHER & BAGLEY  
510 San Mateo Avenue  
San Bruno, California 94066

Accountancy Partnership  
Certificate No. PAR 3086

Respondents.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision herein.

This Decision shall become effective on October 20, 2006.

It is so ORDERED September 20, 2006.

  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General  
of the State of California  
JOSHUA A. ROOM, State Bar No. 214663  
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455 Golden Gate Avenue, Suite 11000  
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Attorneys for Complainant

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Respondents.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the California Board of Accountancy of the Department of Consumer Affairs, the parties agree to the following Stipulated Settlement and Disciplinary Order to be submitted to the Board for approval and adoption in disposition of the Accusation.

**PARTIES**

1. Carol Sigmann (Complainant) is the Executive Officer of the California Board of Accountancy. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.



1 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
2 reconsideration and court review of an adverse decision; and all other rights accorded by the  
3 California Administrative Procedure Act and other applicable laws.

4 8. Respondents voluntarily, knowingly, and intelligently waive and give up  
5 each and every right set forth above.

6 CULPABILITY

7 9. Respondents admit the truth of each and every charge and allegation in  
8 Accusation No. AC-2006-12.

9 10. Respondent Fisher agrees that his Certified Public Accountant Certificate  
10 No. CPA 50369 is subject to discipline and he agrees to be bound by the Board's imposition of  
11 discipline as set forth in the Disciplinary Order below. Respondent F&B likewise agrees that its  
12 Accountancy Partnership Certificate No. PAR 3086 is subject to discipline and it agrees to be  
13 bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

14 RESERVATION

15 11. The admissions made by Respondents herein are only for the purposes of  
16 this proceeding, or any other proceedings in which the Board or other professional licensing  
17 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

18 CONTINGENCY

19 12. This stipulation shall be subject to approval by the Board. Respondent  
20 understands and agrees that counsel for Complainant and/or the staff of the Board may  
21 communicate directly with the Board regarding this stipulation and settlement, without notice to  
22 or participation by Respondent. By signing the stipulation, Respondent understands and agrees  
23 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the  
24 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
25 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for  
26 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board  
27 shall not be disqualified from further action by having considered this matter.

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13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. CPA 50369, issued to Respondent George Alan Fisher, and Accountancy Partnership Certificate No. PAR 3086, issued to Respondent Fisher & Bagley, are each and severally revoked. However, these revocations are stayed and Respondents are each and severally placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondents shall obey all federal, California, other state and local laws, including those rules relating to the practice of public accountancy in California.

2. **Submit Written Reports.** Respondents shall submit, within ten (10) days of completion of each quarter, written reports to the Board on a form obtained from the Board. Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as required. These shall contain statements relative to Respondents' compliance with all terms and conditions of probation. Respondents shall immediately execute all release of information forms as may be required by the Board or its representatives.

3. **Personal Appearances.** Respondents shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

4. **Comply With Probation.** Respondents shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondents' compliance with probation terms and conditions.

1                   5.       **Practice Investigation.** Respondents shall be subject to, and shall permit,  
2 practice investigation of the Respondents' professional practices. Such a practice investigation  
3 shall be conducted by representatives of the Board, provided notification of such review is  
4 accomplished in a timely manner.

5                   6.       **Comply With Citations.** Respondents shall comply with all final orders  
6 resulting from citations issued by the Board of Accountancy.

7                   7.       **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
8 either Respondent leaves California to reside or practice outside the state, that Respondent must  
9 notify the Board in writing of the dates of departure and return. Periods of non-California  
10 residency or practice outside the state shall not apply to reduction of the probationary period, or  
11 of any suspension. No obligation imposed herein, including requirements to file written reports,  
12 reimburse Board costs, or make restitution to consumers, shall be suspended or otherwise  
13 affected by periods of out-of-state residency or practice except at written direction of the Board.

14                  8.       **Continuing Education Courses.** Respondent Fisher shall complete and  
15 provide proper proof to the Board of twenty-four (24) hours of continuing professional education  
16 (CPE) courses in audit-related subjects, at least eight (8) hours of which shall include instruction  
17 on audits of employee benefit plans. The professional education courses shall be completed  
18 within a period of time designated and specified in writing by the Board or its designee, which  
19 time-frame shall be incorporated as a condition of this probation. This required coursework shall  
20 be in addition to continuing education requirements for relicensing. Failure to satisfactorily  
21 complete the required courses as scheduled or failure to complete same no later than one hundred  
22 (100) days prior to the termination of probation shall constitute a violation of probation.

23                  9.       **Review of Audit Work Papers.** Prior to release of any audit report by  
24 either or both Respondents, all work papers and audited financial statements for or pertaining to  
25 any such audit must be reviewed and approved, at Respondents' expense, by an independent  
26 Certified Public Accountant approved by the Board or its representatives.

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1                   10.     **Cost Reimbursement.** Respondents are jointly and severally responsible  
2 to reimburse the Board \$6,357.40 for its costs of investigation and prosecution. Full payment  
3 shall be made within thirty (30) days of the date the Board's decision is final unless another  
4 payment plan is agreed to by the Board or its representative in writing, in which case such plan  
5 shall be incorporated as a condition of this probation. Any such plan must result in full payment  
6 within two (2) years of the effective date.

7                   11.     **Active License Status.** Respondents shall at all times maintain an active  
8 license status with the Board, including during any period of suspension. If any license is  
9 expired at the time the Board's decision becomes effective, the license must be renewed within  
10 thirty (30) days of the effective date of the decision.

11                   12.     **Violation of Probation.** If either Respondent violates probation in any  
12 respect, the Board, after giving that Respondent notice and an opportunity to be heard, may  
13 revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition  
14 to revoke probation is filed against either Respondent during probation, the Board shall have  
15 continuing jurisdiction, and the period of probation shall be extended, until the matter is final.

16                   13.     **Completion of Probation.** Upon successful completion of probation,  
17 Respondents' licenses will be fully restored.

18  
19                                   ACCEPTANCE

20                   I have carefully read the above Stipulated Settlement and Disciplinary Order and  
21 have fully discussed it with my attorney, Donald R. Wild. I understand the stipulation and the  
22 effect it will have on my Certified Public Accountant Certificate No. CPA 50369. I enter into  
23 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and  
24 agree to be bound by the Decision and Order of the California Board of Accountancy.

25 DATED: 7/5/06

26                                   George Fisher  
27                                   GEORGE ALAN FISHER  
28                                   Respondent

1 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
2 have fully discussed it with my attorney, Donald R. Wild. I understand the stipulation and the  
3 effect it will have on my Accountancy Partnership Certificate No. PAR 3086. I enter into this  
4 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
5 to be bound by the Decision and Order of the California Board of Accountancy. I am authorized  
6 to sign on behalf of the partnership to accept this discipline on the Partnership Certificate.

7 DATED: 7/5/06

8   
9 GEORGE ALAN FISHER  
Partner in Respondent Fisher & Bagley

10 I have read and fully discussed with Respondents George Alan Fisher and Fisher  
11 & Bagley the terms and conditions and other matters contained in the above Stipulated  
12 Settlement and Disciplinary Order. I approve its form and content.

13 DATED: 7/20/06


14   
15 DONALD R. WILD  
16 Attorney for Respondents

17  
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
20 submitted for consideration by the California Board of Accountancy of the Department of  
21 Consumer Affairs.

22 DATED: 7/21/06

23 BILL LOCKYER, Attorney General  
24 of the State of California

25   
26 JOSHUA A. ROOM  
27 Deputy Attorney General

Attorneys for Complainant

28 DOJ Matter ID: SF2006400684; 40093816.wpd



**Exhibit A**

**Accusation No. AC-2006-12**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JOSHUA A. ROOM, State Bar No. 214663  
Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

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8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

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11 GEORGE ALAN FISHER  
12 510 San Mateo Avenue  
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**A C C U S A T I O N**

13 Certified Public Accountant  
14 Certificate No. CPA 50369

and

15 FISHER & BAGLEY  
16 510 San Mateo Avenue  
San Bruno, California 94066

17 Accountancy Partnership  
18 Certificate No. PAR 3086

Respondents.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Officer of the California Board of Accountancy of the Department of  
24 Consumer Affairs.

25 2. On or about May 26, 1988, the California Board of Accountancy issued  
26 Certified Public Accountant Certificate No. CPA 50369 to George Alan Fisher (Respondent  
27 Fisher). The Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on April 30, 2007, unless renewed.

3. On or about March 14, 1975, the California Board of Accountancy issued Accountancy Partnership Certificate No. PAR 3086 to Fisher & Bagley (Respondent F & B). At the time of application, the listed partners were Jack Fisher (CPA 7097) and Dean Allen Bagley (CPA 14579). On or about April 11, 2002, Jack Fisher was disassociated from the partnership, and Respondent Fisher became a partner. The Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2007, unless renewed.

## JURISDICTION

4. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 5100 of the Code provides, in pertinent part, that the Board may suspend, revoke, refuse to renew, or censure any permit or certificate granted by the Board.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 5070.6 of the Code provides that an expired permit may be renewed at any time within five years after its expiration by application and payment of fees.

## STATUTES, REGULATIONS, AND PROFESSIONAL STANDARDS

7. Section 5100 of the Code provides, in pertinent part, that the Board may revoke, suspend, or refuse to renew any permit or certificate issued by the Board, or may censure the holder of that permit or certificate, for “unprofessional conduct” including, but not limited to:

“(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.”

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1                   8.       California Code of Regulations, title 16, section 58 (Board Rule 58),  
2 provides that licensees engaged in the practice of public accountancy shall comply with all  
3 applicable professional standards, including but not limited to generally accepted accounting  
4 principles and generally accepted auditing standards.

5                   9.       Standards of practice pertinent herein include, without limitation:

6                   a.       Generally Accepted Auditing Standards (GAAS) discussed in the  
7 Statements on Auditing Standards (SAS) issued by the American Institute of Certified Public  
8 Accountants (AICPA). The SAS are codified, by "AU" number, in the AICPA *Codification of*  
9 *Statements on Auditing Standards*. Those relevant herein include:

10                           AU § 150 (Generally Accepted Auditing Standards);

11                           AU § 311 (Audit Planning and Supervision);

12                           AU § 319 (Consideration of Internal Control - Financial Statement Audit);

13                           AU § 336 (Using the Work of a Specialist);

14                           AU § 339 (Working Papers);

15                           AU § 560 (Subsequent Events).

16                   b.       Additional audit, accounting, and reporting standards contained in  
17 the Audit and Accounting Guide - Employee Benefit Plan (AAG-EBP) issued by the AICPA; the  
18 standards contained therein which are relevant herein include:

19                           AAG-EBP § 7.59 (Auditing Procedures for Other Investments);

20                           AAG-EBP § 10.04 (Auditing Participant Data, Allocations, Obligations);

21                           AAG-EBP § 10.05 (Auditing Employer Participant Records);

22                           AAG-EBP § 11.09 (Auditing Party-in-Interest Relationships).

23                   10.       Section 5107 of the Code provides, in pertinent part, that the Executive  
24 Officer of the Board may request the administrative law judge, as part of the proposed decision in  
25 a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed  
26 a violation of this chapter to pay to the Board reasonable costs of investigation and prosecution  
27 of the case, including, but not limited to, attorneys' fees.

28    ///

1 BACKGROUND FACTS

2 11. For the six years ended March 31, 1997 to March 31, 2002, audits of the  
3 Independent Electric Supply Inc. Employee Stock Ownership Plan and Trust-Stock Bonus Plan  
4 (IES-ESOP) were conducted by the Accountancy Partnership of Respondent F&B.

5 12. Respondent Fisher was the engagement partner for Respondent F & B and  
6 participated in the audit of the IES-ESOP for the year ended March 31, 2002, supervising the  
7 work of John Edward Baka (CPA 73539).

8 CAUSE FOR DISCIPLINE

9 (Gross Negligence, Repeated Acts of Negligence)

10 13. Respondents are each and all subject to disciplinary action under section  
11 5100, subsection (c), of the Code, in that Respondents performed an audit of the IES-ESOP for  
12 the year ended March 31, 2002, which audit was characterized by extreme departures from  
13 applicable professional standards constituting gross negligence and/or repeated acts of  
14 negligence. Among the departures from professional standards were the following:

15 a. The working papers prepared by Respondents (collectively, "auditor") did  
16 not adequately document planning of the audit engagement. Adequate documentation of the  
17 audit planning process ought to have shown: analytical review procedures; understanding of the  
18 IES-ESOP entity's internal control structure; assessments of the level of control risk; preliminary  
19 judgments about materiality levels. (AU §§ 150, 311, 339).

20 b. The working papers prepared or maintained by Respondents do not  
21 contain evidence that the lead auditor, Respondent Fisher, properly reviewed and supervised  
22 work papers prepared by John Edward Baka. (AU §§ 150, 311, 339).

23 c. There was no documentation of the auditor's understanding of the internal  
24 control structure of the IES-ESOP entity and the assessed level of control risk (AU §§ 150, 319).

25 d. The auditor relied on an appraiser to value the company stock owned by  
26 the IES-ESOP entity, which stock was not traded on the open market, without documentation of  
27 any reliable effort to evaluate the credentials of the appraiser. (AU § 336, AAG-EBP § 7.59).

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- 1 e. The working papers do not provide documentation that the auditor tested  
2 the participant data, including pay rates and plan contributions. (AAG-EBP §§ 10.04, 10.05).
- 3 f. The working papers do not provide documentation that the auditor tested  
4 for Party in Interest relationships and Prohibited Transactions. (AAG-EBP § 11.09)
- 5 g. The working papers provide no evidence or documentation that the auditor  
6 performed a search for unrecorded liabilities. (AU § 560).
- 7 h. The auditor signed off on audit programs to indicate performance of audit  
8 tests, but most of the supporting schedules do not contain tick marks and/or explanations so as to  
9 indicate that the audit steps were in fact performed. Moreover, the audit programs utilized by the  
10 auditor were for nonprofit organizations and not employee benefit programs. (AU §§ 311, 339).
- 11 i. The auditor failed to exercise professional skepticism in the audit of the  
12 IES-ESOP for the year ended March 31, 2002, by failing to properly: plan the audit; document  
13 understanding of the internal control structure; or obtain evidentiary matter. (AU § 150).

14  
15  
16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
18 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

- 19 1. Revoking or suspending or otherwise imposing discipline upon Certified  
20 Public Accountant Certificate No. CPA 50369, issued to George Alan Fisher;
- 21 2. Revoking or suspending or otherwise imposing discipline upon  
22 Accountancy Partnership Certificate No. 3086, issued to Fisher & Bagley;
- 23 3. Ordering Respondents, jointly and severally, to pay the California Board  
24 of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant  
25 to Business and Professions Code section 5107; and

26 ///

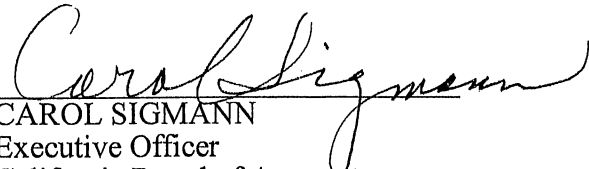
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4. Taking such other and further action as is deemed necessary and proper.

DATED: May 3, 2006

  
CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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